

Patent
Attorney Docket No. 032,290-092
(formerly 412692000403)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

SIRIMANNE et al.

Serial No.: 09/869,282

Filed: June 18, 2002

For: DEVICE AND METHOD FOR SAFE
LOCATION AND MARKING OF A
CAVITY AND SENTINEL LYMPH
NODES

Group Art Unit: 1619

Examiner: Not yet assigned

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR §§ 1.97 and 1.98, the items identified in this Information Disclosure Statement ("IDS") are brought to the attention of the Office. The items are listed on the attached form PTO-SB/08a and PTO-SB/08b. In accordance with §1.98(d), copies of some or all of the references listed on the attached Form PTO-1449 are not enclosed herewith because they were previously cited by or submitted to the Patent and Trademark Office in one or more of the prior U.S. Applications: U.S. Application Serial No. 09/220,618, filed December 24, 1998, now abandoned; U.S. Application Serial No. 09/285,329, filed April 2, 1999, now U.S. Patent No. 6,356,782; U.S. Application Serial No. 09/805,652, filed March 13, 2001; U.S. Application Serial No. 10/114,712, filed April 1, 2002; U.S. Application Serial No. 09/347,185, filed July 2, 1999, now U.S. Patent No. 6,371,904; U.S. Application Serial No. 10/960,618, filed October 6, 2004; U.S. Application Serial No. 10/960,622, filed October 6, 2004; U.S. Application Serial No. 10/961,979, filed October 8, 2004; U.S. Application Serial No. 10/961,491, filed October 7, 2004; and U.S.

CERTIFICATE OF MAILING (37 C.F.R. §1.8)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class mail in an envelope addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

October 13, 2005
Date of Deposit
NB1:665870.1

Cynthia B. Pacheco
Cynthia B. Pacheco

Application Serial No. 10/961,581, filed October 8, 2004. Copies of the references can be provided at the request of the Examiner.

The items identified in this IDS may or may not be "material" pursuant to 37 CFR § 1.56. The submission thereof by Applicant is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as "prior art" under 35 USC § 102 with respect to this invention unless specifically designated by Applicant as such.

INFORMATION DISCLOSURE STATEMENT FILING PROVISION:

☒ This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) within three months of the filing date of the application, which is not a continued prosecution application filed under § 1.53(d); or (2) within three months of entry of the national stage as set forth in 37 CFR § 1.491; or (3) before the mailing of a first Office action on the merits; or (4) before the mailing of a first Office action after filing a request for continued examination under § 1.114. Thus, no fee is required.

☒ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR § 1.17(p) to the deposit account referenced below.

☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.

☐ This IDS is being submitted under 37 CFR § 1.97(c), that is after mailing of a first Office action on the merits, but before a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311.

☐ The fee due under 37 CFR § 1.17(p) is submitted herewith.

☐ A statement under 37 CFR § 1.97(e) is included below, thus no fee is required. In the event that this IDS is not received before a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR § 1.97(d) and charge the fee due under 37 CFR § 1.17(p) to the deposit account below.

☐ This IDS is being submitted under 37 CFR § 1.97(d), that is after a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311, but before payment of the issue fee. A statement under 37 CFR § 1.97(e) is included below. The fee due under 37 CFR § 1.17(p) is submitted herewith.

Statement Under 37 CFR § 1.97(e):

- ☐ Each item contained in this IDS was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS.
- ☐ No item contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this IDS.

PAYMENT AND/OR AUTHORIZATION TO CHARGE FEES:

- ☐ A check in the amount of \$180.00 is enclosed for the above fee(s).
- ☐ Please charge \$180.00 to Deposit Account No. **50-2862** for the above fee(s).

The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to O'Melveny and Myers' Deposit Account No. **50-2862**.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: October 13, 2005

By: Diane K. Wong
Diane K. Wong
Reg. No. 54,550
Attorneys for Applicant

DKW/cp
O'MELVENY & MYERS LLP
610 Newport Center Drive, 17th Floor
Newport Beach, CA 92660-6429
(949) 760-9600

Substitute for form 1449A-PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

Complete if Known

| | |
|----------------------|-------------------------------------|
| Application No. | 09/869,282 |
| Filing Date | June 18, 2002 |
| First Named Inventor | SIRIMANNE et al. |
| Art Unit | 1619 |
| Examiner Name | Not yet assigned |
| Attorney Docket No. | 032,290-092 (formerly 412692000403) |

Sheet

1

of

4

U.S. PATENT DOCUMENTS

| Examiner Initials | Cite No. ¹ | Document No. | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear |
|----------------------|--------------------------|--|--------------------------------|--|--|
| | | Number-Kind Code ² (if known) | | | |
| | 1. | us-2,609,347 | 09/1952 | Wilson | |
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| | 28. | us-5,192,300 | 03/1993 | Fowler | |

Examiner
SignatureDate
Considered

*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

NB1:665862.1

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

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Sheet

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of

4

Complete if Known

| | |
|----------------------|-------------------------------------|
| Application No. | 09/869,282 |
| Filing Date | June 18, 2002 |
| First Named Inventor | Sirimanne |
| Art Unit | 1619 |
| Examiner Name | Not yet assigned |
| Attorney Docket No. | 032,290-092 (formerly 412692000403) |

U.S. PATENT DOCUMENTS

| Examiner Initials | Cite No. ¹ | Document No. | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear |
|----------------------|--------------------------|--|--------------------------------|--|--|
| | | Number-Kind Code ² (if known) | | | |
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| | 56. | us-6,092,009 | 07/2000 | Glover | |

Examiner
SignatureDate
Considered

*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.

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|-------|---|----|---|----------------------|-------------------------------------|
| Sheet | 3 | of | 4 | Application No. | 09/869,282 |
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| | | | | First Named Inventor | Sirimanne |
| | | | | Art Unit | 1619 |
| | | | | Examiner Name | Not yet assigned |
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| Examiner Initials* | Cite No. ¹ | Foreign Patent Document Country Code ³ Number ⁴ Kind Code (if known) | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear | T ⁶ |
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| | 75. | WO-0024320 | 05/2000 | | | |
| | 76. | WO-0032253 | 06/2000 | | | |
| | 77. | WO-0038579 | 07/2000 | | | |

Examiner
SignatureDate
Considered

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| Art Unit | 1619 |
| Examiner Name | Not yet assigned |
| Attorney Docket No. | 032,290-092 (formerly 412692000403) |

| | | | |
|-------|---|----|---|
| Sheet | 4 | of | 4 |
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NON PATENT LITERATURE DOCUMENTS

| Examiner Initials* | Cite No. ¹ | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s) volume-issue number(s), publisher, city and/or country where published | T ² |
|--------------------|-----------------------|---|----------------|
| | 78. | FOURNIER, C. et al., "Experimental Studies and Preliminary Clinical Trial of Vinorelbine-loaded Polymeric Bioresorbable Implants for the Local treatment of Solid Tumors," <i>Cancer Research</i> , (1991) 51:5384-5391 | |
| | 79. | HOFMAN, "Biodegradable Implants in Orthopaedic Surgery – A Review on the State-of-the-Art," <i>Clinical Materials</i> (1992) 10:75-80 | |
| | 80. | PANGMAN, "The Use of Plastic Prosthesis in Breast Plastic and Other Soft Tissue Surgery." <i>The Western Journal of Surgery, Obstetrics and Gynecology</i> , (August 1995) 508 | |
| | 81. | CLARKSON, "Sponge Implants for Flat Breasts," <i>Proceedings of the Royal Society of Medicine</i> , (1960) Vol. 53: 880-881 | |
| | 82. | PCT Search Report for PCT/US99/30619, dated August 30, 2000 | |

Examiner
SignatureDate
Considered

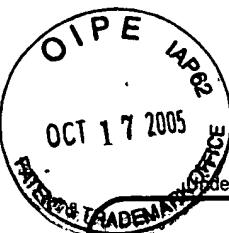
*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.

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IF 1619

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

24

Application Number

09/869,282

Filing Date

June 18, 2002

First Named Inventor

SIRIMANNE

Art Unit

1619

Examiner Name

Not yet assigned

Attorney Docket Number

032,290-092 (formerly 412692000403)

ENCLOSURES (Check all that apply)

☐ Fee Transmittal Form

☐ Fee Attached

☐ Amendment/Reply

☐ After Final

☐ Affidavits/declaration(s)

☐ Extension of Time Request

☐ Express Abandonment Request

☒ Information Disclosure Statement

☐ Certified Copy of Priority Document(s)

☐ Response to Missing Parts/
Incomplete Application

☐ Response to Missing Parts
under 37 CFR 1.52 or 1.53

☐ Drawing(s)

☐ Licensing-related Papers

☐ Petition

☐ Petition to Convert to a
Provisional Application

☐ Power of Attorney, Revocation
Change of Correspondence Address

☐ Terminal Disclaimer

☐ Request for Refund

☐ CD, Number of CD(s) _____

☐ Landscape Table on CD

☐ After Allowance Communication to TC

☐ Appeal Communication to Board
of Appeals and Interferences

☐ Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)

☐ Proprietary Information

☐ Status Letter

☒ Other Enclosure(s) (please identify
below):
Status inquiry
Receipt verification postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

O'Melveny & Myers LLP

Signature

Diane K. Wong

Printed name

Diane K. Wong

Date

October 13, 2005

Reg. No.

54,550

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature

Cynthia B. Pacheco

Typed or printed name

Cynthia B. Pacheco

Date

October 13, 2005

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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

American LegalNet, Inc.
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Patent
Attorney Docket: 032,290-092
(formerly 412692000403)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

SIRIMANNE et al.

Serial No.: 09/869,282

Filed: June 18, 2002

For: DEVICE AND METHOD FOR SAFE
LOCATION AND MARKING OF A
CAVITY AND SENTINEL LYMPH NODES

Group Art Unit: 1619

SECOND STATUS INQUIRY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

No office action or other communication on the above application has been received since the Notice of Acceptance of Power of Attorney mailed on May 26, 2005.

Attached is a copy of the first Status Inquiry and receipt verification postcard, as received by the USPTO on March 14, 2005. No response to said Status Inquiry has been received. Applicant respectfully requests to be informed of the status of the application.

Please direct your response to the undersigned.

Respectfully submitted,
O'MELVENY & MYERS LLP

Dated: October 13, 2005

By: Diane K. Wong
Diane K. Wong, Reg. No. 54,550
Attorneys for Applicant

610 Newport Center Drive, Suite 1700
Newport Beach, CA 92660-6429
(949) 760-9600

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October 13, 2005
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NB1:665874.1

Cynthia B. Pacheco
Cynthia B. Pacheco



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Applicant: SIRIMANNE et al.
Serial No.: 09/869,282
For: DEVICE AND METHOD FOR SAFE LOCATION AND MARKING OF A
CAVITY AND SENTINEL LYMPH NODES

Attorney: DKW/cp
Docket No.: 032,290-092

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2. Status Inquiry (w/copy of Power of Attorney and receipt verification postcard)
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Date of Deposit: March 9, 2005
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IR1:1063214.1

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Applicant: SIRIMANNE et al.
Serial No.: 09/869,282
For: DEVICE AND METHOD FOR SAFE LOCATION AND MARKING OF A
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Attorney: DKW/cp
Docket No.: 032,290-092

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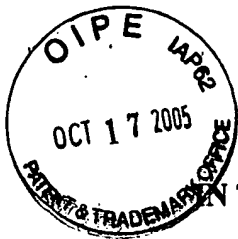
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3. Receipt verification postcard

Date of Deposit: March 9, 2005
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IR1:1063214.1



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Patent

Attorney Docket: 032,290-092
(formerly 412692000403)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

SIRIMANNE et al.

Serial No.: 09/869,282

Filed: June 18, 2002

**For: DEVICE AND METHOD FOR SAFE
LOCATION AND MARKING OF A
CAVITY AND SENTINEL LYMPH NODES**

Group Art Unit: 2605

Examiner: Not yet assigned

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STATUS INQUIRY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

No office action or other communication on the above application has been received since the FILING RECEIPT, mailed on August 27, 2002.

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Attached is a copy of the Power of Attorney by Assignee of Entire Interest and Revocation of Prior Powers and receipt verification postcard, as received by the USPTO on January 28, 2005. No acceptance of said Power of Attorney has been received. Applicant respectfully requests to be informed of the status of the application.

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March 9, 2005

Date of Deposit
IR1:1063212.1

Cynthia B. Pacheco
Cynthia B. Pacheco

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Patent

Attorney Docket: 032,290-092
(formerly 412692000403)

Please direct your response to the undersigned.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: March 9, 2005

By:

Diane K. Wong

Diane K. Wong

Attorneys for Applicant

Reg. No. 54,550

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OMM Docket Nos.

032,290-087
032,290-088
032,290-090
032,290-091
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032,290-096
032,290-101
032,290-102
032,290-103
032,290-104
032,290-105

Applicant: Ethicon Endo-Surgery, Inc.

Attorney: JCK/cp
Docket No.: multiple

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IR1:1061819.1

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Applicant: Ethicon Endo-Surgery, Inc.

Attorney: JCK/cp
Docket No.: multiple

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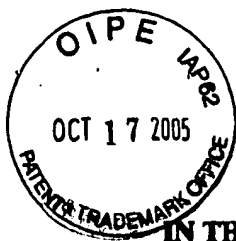
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Date of Deposit: January 25, 2005
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**POWER OF ATTORNEY BY ASSIGNEE OF ENTIRE INTEREST
AND REVOCATION OF PRIOR POWERS**

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Sir:

I, Gerry S. Gressel, Assistant Secretary, of Ethicon Endo-Surgery, Inc., as representative of the Assignee of record of the entire interest of all applications listed below, hereby revoke all powers of attorney previously given and appoint the following attorneys and/or agents to prosecute and transact all business in the United States Patent and Trademark Office, and in countries other than the United States, and to do all things necessary or appropriate therefore before any competent International Authorities in connection with any international patent application(s) corresponding to the below-identified applications.

| Attorney Name | Registration No. |
|----------------------|------------------|
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| Verne E. Kreger, Jr. | 35,231 |
| Gerry S. Gressel | 34,342 |
| Joseph F. Shirtz | 31,880 |
| Phil Johnson | 27,200 |
| David B. Murphy | 31,125 |
| John Kappos | 37,861 |
| Polaphat Veravanich | 45,179 |
| Diane K. Wong | 54,550 |

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January 25, 2005
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IR1:10599392

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Please send all correspondence to the attention of John Kappos, at Customer Number 34263, and direct all telephone calls to John Kappos at (949) 737-2900.

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34263
PATENT TRADEMARK OFFICE

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Irvine, CA 92618
(949) 737-2900

| U.S. Serial No./ Patent No. | U.S. Filing Date | First-Named Inventor | Reel | Frame | Recordation Date | OMM Docket |
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Patent

In conformance with 37 C.F.R. §3.73(b), I hereby certify that all documents in connection with the chain of title for each of the above applications have been reviewed, and to the best of my knowledge, all right, title and interest is in Ethicon Endo-Surgery, Inc.

COPY

Dated: Jan 24, 2005

By: _____

Gerry S. Gressel
Assistant Secretary
Ethicon Endo-Surgery, Inc.

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